APPENDIX

The laws relating to the sale of narcotic drugs in pertinent part provide (26 U. S. C. 2550, 2551, 2553, 2554, 2557, 3220, 3221, 3224):

SECTION 2550. *Tax*—(a) *Rate.*—There shall be levied, assessed, collected, and paid upon opium, coca leaves, any compound, salt, derivative, or preparation thereof, produced in or imported into the United States, and sold, or removed for consumption or sale, an internal revenue tax at the rate of 1 cent per ounce, and any fraction of an ounce in a package shall be taxed as an ounce. * * *

* * * * *

SECTION 2551. *Exemptions*—(a) *Preparations of limited narcotic content.*—The provisions of this subchapter and part V of subchapter A of chapter 27 shall not be construed to apply to the manufacture, sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, * * * in one fluid ounce, * * * or to liniments, ointments, or other preparations which are prepared for external use, only, * * * *Provided,* That such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this subchapter and said part V: *Provided further,* That any manufacturer, producer, compounder, or vendor (including

dispensing physicians) of the preparations and remedies mentioned in this section lawfully entitled to manufacture, produce, compound, or vend such preparations and remedies, shall keep a record of all sales, exchanges, or gifts of such preparations and remedies in such manner as the Secretary shall direct. Such record shall be preserved for a period of two years in such a way as to be readily accessible to inspection by any officer, agent, or employee of the Treasury Department duly authorized for that purpose, * * * and every such person so possessing or disposing of such preparations and remedies shall register as required in section 3221 and, if he is not paying a tax under section 3220, he shall pay a special tax of $1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the collector of the district in which he carries on such occupation as provided in part V of subchapter A of chapter 27.

* * * * *

SECTION 2553. *Packages*—(a) *General requirement.*—It shall be unlawful for any person to purchase, sell, dispense, or distribute any of the drugs mentioned in section 2550 (a) except in the original stamped package or from the original stamped package; * * *.

* * * * *

SECTION 2554. *Order forms*—(a) *General requirement.*—It shall be unlawful for any person to sell, barter, exchange, or give away any of the drugs mentioned in section 2550 (a) except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged, or given,

on a form to be issued in blank for that purpose by the Secretary.

* * * * *

(c) *Other exceptions.*—Nothing contained in this section, section 2563, or section 2564 shall apply—* * *

(2) *Prescriptions.*—To the sale, dispensing, or distribution of any of the drugs mentioned in section 2550 (a) by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, or veterinary surgeon registered under section 3221: * * *

* * * * *

(d) *Preservation.*—Every person who shall accept any order required under subsection (a), and in pursuance thereof shall sell, barter, exchange, or give away any of the drugs mentioned in section 2550 (a), shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by any officer, agent, or employee of the Treasury Department duly authorized for that purpose * * *.

* * * * *

(f) *Supply.*—The Secretary shall cause suitable forms to be prepared for the purposes above mentioned, and shall cause the same to be distributed to collectors for sale by them to those persons who shall have registered and paid the special tax as required by sections 3221 and 3220 in their districts, respectively; and no collector shall sell any of such forms to any persons other than a person who has registered and paid the special tax as required by said sections in his district.

(g) *Unlawful use.*—It shall be unlawful for any person to obtain by means of said

order forms any of the aforesaid drugs for any purpose other than the use, sale, or distribution thereof by him in the conduct of a lawful business in said drugs or in the legitimate practice of his profession.

* * * * *

SECTION 2557. Penalties— * * * (b) *Violations in general.*—

(1) Any person who violates or fails to comply with any of the requirements of this subchapter or part V of subchapter A of chapter 27, shall, on conviction, be fined not more than $2,000 or be imprisoned not more than five years, or both, in the discretion of the court.

(2) Any person required under this subchapter or section 3220 to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this subchapter or section 3220, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

* * * * *

SECTION 3220. *Tax.*—On or before July 1 of each year every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, or gives away opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation

thereof, shall pay the special taxes hereinafter provided. Every person upon first engaging in any of such activities shall immediately pay the proportionate part of the tax for the period ending on the following June 30.

(a) *Importers, manufacturers, or producers.*—Importers, manufacturers, producers, or compounders, lawfully entitled to import, manufacture, produce, or compound any of the aforesaid drugs, $24 per annum;

(b) *Wholesale dealers.*—Wholesale dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, $12 per annum;

(c) *Retail dealers.*—Retail dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, $3 per annum; * * *

* * * * *

SECTION 3221. *Registration*—(a) *Requirements.*—On or before July 1 of each year every person who engages in any of the activities enumerated in section 3220 shall register with the collector of the district his name or style, place of business and place or places where such business is to be carried on, and every person upon first engaging in any such activities shall immediately make like registration.

* * * * *

SECTION 3224. *Unlawful acts in case of failure to register and pay special tax*—(a) *Trafficking.*—It shall be unlawful for any person required to register under the provisions of this part or section 2551 (a) to import, manufacture, produce, compound, sell, deal in, dispense, distribute, administer, or give away any of the aforesaid drugs without having registered and paid the special tax as imposed by this part, or section 2551 (a).

(b) *Transportation.*—It shall be unlawful for any person who shall not have registered and paid the special tax as required by sections 3220 and 3221 to send, ship, carry, or deliver any of the aforesaid drugs from any State or Territory or the District of Columbia, or any insular possession of the United States, to any person in any other State or Territory or the District of Columbia or any insular possession of the United States: * * *

(c) *Possession.*—It shall be unlawful for any person who has not registered and paid the special tax as provided for by this part or section 2551 (a), to have in his possession or under his control any of the aforesaid drugs; and such possession or control shall be presumptive evidence of a violation of this subsection and subsection (a), and also a violation of the provisions of sections 3220 and 3221: *Provided,* That this subsection shall not apply to any employee of a registered person, or to a nurse under the supervision of a physician, dentist, or veterinary surgeon registered under this part or section 2551 (a), having such possession or control by virtue of his employment or occupation and not on his own account; or to the possession of any of the aforesaid drugs which has or have been prescribed in good faith by a physician, dentist, or veterinary surgeon registered under this part or section 2551 (a); * * * *Provided further,* That it shall not be necessary to negative any of the aforesaid exemptions in any complaint, information, indictment, or other writ or proceeding laid or brought under this part or subchapter A of chapter 23; and the burden of proof of any such exemption shall be upon the defendant.

The Treasury Regulations relating to the sale of narcotic drugs in pertinent part provides (26 C. F. R. 151.90 et seq.):

SECTION 151.90 *When forms not required.* The use of order forms is not required:

* * * * *

(e) For the sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than 2 grains of opium * * * in 1 fluid ounce * * *; or of liniments, ointments, or other preparations which are prepared for external use only, * * * provided that such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this Act and that a record of dispositions is kept as required by § 151.185.

SECTION 151.182 *Restrictions on dispositions.*— * * * A manufacturer may produce and sell as exempt only preparations readily capable of use for claimed medicinal purposes, and sales thereof, if not to consumers, shall be made only to persons registered in Class V. Sales made to consumers, either by manufacturers or dealers shall be made only in such quantities and with such frequency to the same purchaser as will restrict their use to the medicinal purpose for which intended.

SECTION 151.183 *Dispositions to dealers.*— Orders for exempt preparations except where sold to a registrant in Class VI are not required to be on any particular forms, but an order from a dealer shall not be honored by a manufacturer or other dealer

unless it bears the registry number of the dealer giving the order. * * *

* * * * *

SECTION 151.185 *Records required.*—Every manufacturer, producer, compounder, or vendor (including dispensing physicians), of exempt preparations shall record all sales, exchanges, gifts, or other dispositions, the entries to be made at the time of delivery. Separate records shall be kept of dispositions to registrants and of dispositions to consumers. The record of dispositions to registrants shall show the name, address, and registry number of the registrant to whom disposed, the name and quantity of the preparation, and the date upon which delivery to the registrant, his agent or a carrier is made. The record of dispositions to consumers shall show the name of the recipient, his address, the name and quantity of the preparation, and the date of delivery.

* * * * *

SECTION 151.201 *Records open to inspection.*—Any officer, agent, or employee of the Treasury Department authorized to enforce the Act, * * * shall have authority to examine the books, papers, and records kept pursuant to the regulations in this part, and may require the production thereof.

All order forms, duplicate forms, prescription records, returns, and inventories required under the Act or the regulations in this part to be kept on file shall be kept so that they can be readily inspected.

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